

DECISION
GRAFTON PLANNING BOARD CLERK
RECEIVED TOWN CLERK
GRAFTON, MA
DEFINITIVE SUBDIVISION PLAN
"BULL MEADOW" SUBDIVISION
2017 MAR 28 PM 11 32

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GRAFTON, MA

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Off Appaloosa Drive, North Grafton, MA
(Assessor's Map 110, Lot 31 & Map 110, Lot 32)

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Bull Meadow, LLC, 2 Rachel Road, Boylston, MA 01505 (hereinafter the Applicant / Owner), for a Definitive Plan Approval for a 15 lot Conventional Development Residential Subdivision on property located at 11 Appaloosa Drive, 109R Adams Road, 37 Side Bridle Ridge Drive, and 94R Old Westboro Road, and shown as Grafton Assessor's Map 110, Lot 31 & Map 110, Lot 32 (hereinafter the Site) by deed recorded in the Worcester District Registry of Deeds (WDRD) in Book 35310, Page 74 and Book 53605, Page 383.

I. BACKGROUND

The application for Approval of a Definitive Subdivision Plan (hereinafter Application) was filed with the Planning Board June 13, 2016. Notice of the public hearing and the subject matter thereof was published in the Grafton News on July 7, July 14, July 21 and July 28, 2016, and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. The public hearing on the Application was opened on July 25, 2016 and continued on September 12 (no testimony received), October 24, November 14 (no testimony received), December 12, 2016 (no testimony received), January 23, 2017, February 13 and February 27, 2017. During the public hearings, all those wishing to speak to the petition were heard. Following public input the hearing was closed on February 27, 2017.

The following Board members were present throughout the public hearing: Chairman Michael Scully, Vice Chairman Robert Hassinger, Clerk David Robbins, and Members Linda Hassinger and Tracy Lovvorn. At the hearing, Patick McCarty and Brian Marchetti of McCarty Engineering and Gordon Lewis (Applicant / Owner) presented the proposal. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or in the Office of the Planning Board.

Multiple requests to extend the time to file a decision was granted by the Applicant due to the Applicant's request to continue the public hearing beyond the allowable time for the Board to make and file a Decision. Requests were made and granted as follows:

- First Request: extend time to file a Decision to February 17, 2017 (see EXHIBIT #32).
- Second Request: extend time to file a Decision to March 17, 2017 (see EXHIBIT #40).
- Third Request: extend time to file a Decision to April 7, 2017 (see EXHIBIT #45).

II. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

EXHIBIT 1. Application packet submitted by McCarty Engineering, Inc., received June 13, 2016, including the following:

- a) Correspondence from McCarty Engineering, Inc., Definite Subdivision, Estates at Bull Meadow, Appaloosa Drive, Grafton, Massachusetts; dated June 10, 2016; 2 pages.

- b) Definitive Plan Application Packet; 19 pages.
- c) Certificate of Good Standing; signed by the Treasurer/ Collector's Office on June 13, 2015; 1 page.
- d) Waiver Request Form; Submitted date June 10, 2017; 2 pages.
- e) Environmental and Community Impact Analysis; 7 pages.
- f) MA Department of Environmental Protection Form 11 – Soil Suitability Assessment for On-Site Sewage Disposal; 64 pages.
- g) Drainage Report, Estates at Bull Meadow, Definitive Subdivision, North Grafton Massachusetts; dated June 10, 2016; 319 pages.
- h) Plan Set; Definitive Conventional Subdivision Plans, Estates at Bull Meadow, North Grafton, Massachusetts; prepared by McCarty Engineering, Inc.; dated June 10, 2016; 25 sheets.

EXHIBIT 2. Minutes of Meeting, Planning Department – Technical Review; June 28, 2016; 2 pages.

EXHIBIT 3. Email correspondence, Grafton Water District; Bull Meadow; received 6/30/16; 2 pages.

EXHIBIT 4. Public Hearing Notice; stamped in with the Town Clerk on July 5, 2016; 3 pages.

EXHIBIT 5. Email correspondence, Departmental Review Comments; Board of Health; received 7/7/16; 1 page.

EXHIBIT 6. Correspondence from David Deacon, 33 Bridle Ridge Drive; received 7/08/16, color; 2 pages.

EXHIBIT 7. Correspondence from Michael & Susan Brown, 37 Bridle Ridge Drive; received 7/12/16; 5 pages.

EXHIBIT 8. Email correspondence from Daniela Sharma, 18 Bridle Ridge Drive; received 7/14/16; 1 page.

EXHIBIT 9. Correspondence from Jennifer & Joe Wiza, 21 Morgan Drive, Opposition to Bull Meadow Development Permit Approval; color, received 7/18/16; 2 pages.

EXHIBIT 10. Amended Public Hearing Notice; stamped in with Town Clerk on 7/19/16; 1 page.

EXHIBIT 11. Email correspondence from Gail Johnston, 107 Adams Road; received 7/20/16; 2 pages.

EXHIBIT 12. Correspondence from Graves Engineering; Estates at Bull Meadow, Appaloosa Drive, Definitive Plan Review; received 7/20/16; 4 pages.

EXHIBIT 13. Public Hearing Sign In Sheet; July 25, 2016; 1 page.

EXHIBIT 14. File Insert, Place Holder, No Exhibit 14; 1 page.

EXHIBIT 15. Public Hearing Continuance; Request to Continue the Public Hearing to 9/12/16 signed by Gordon Lewis; received at the 7/25/16 Public Hearing; 1 page.

EXHIBIT 16. Correspondence from Graves Engineering; Estates at Bull Meadow, Appaloosa Drive, Wetlands Bylaw Regulations and Stormwater Regulations Review; received 8/18/16; 4 pages.

EXHIBIT 17. Email correspondence from Brian Marchetti, McCarty Engineering, Appaloosa Drive; Request to Continue Public Hearing to 9/26/16; received 8/30/16; 1 page.

- EXHIBIT 18.** Email correspondence Brian Marchetti, McCarty Engineering; Appaloosa Drive; Request to Continue Public Hearing to 10/3/16; received 9/2/16; 1 page.
- EXHIBIT 19.** Email correspondence Brian Marchetti, McCarty Engineering; Appaloosa Drive; Request to Continue Public Hearing to 10/24/16; received 9/12/16; 1 page.
- EXHIBIT 20.** Revised Application Materials submitted by McCarty Engineering, Inc.; received October 11, 2016; includes the following:
- a) Correspondence from McCarty Engineering; Definitive Subdivision Revised Submission, Estates at Bull Meadow, Appaloosa Drive, Grafton Massachusetts; 2 pages.
 - b) Correspondence from McCarty Engineering; Estates at Bull Meadow, Response to Peer Review Comments; 7 pages.
 - c) Waiver Request Form; 3 pages.
 - d) Copy of Correspondence from McCarty Engineering to Maria Mast, Grafton Conservation Agent; Estates at Bull Meadow, Response to Peer Review Comments, dated October 11, 2016; 5 pages.
 - e) Drainage Report, Estates at Bull Meadow, Definitive Subdivision, North Grafton Massachusetts; dated October 11, 2016.
 - f) Correspondence from Green International Affiliates, Inc.; Estate at Bull Meadow, Appaloosa Drive; re: Graves Engineering Vertical Curve Comment; dated September 22, 2016; 1 page.
 - g) Report from EcoTec, Inc.; 109 Adams Road, Grafton; dated October 10, 2016; 38 pages.
 - h) Plan Set; Definitive Conventional Subdivision Plans, Estates at Bull Meadow, North Grafton, Massachusetts; prepared by McCarty Engineering, Inc.; dated June 10, 2016, revised October 11, 2016; 25 sheets.
- EXHIBIT 21.** Email correspondence from Board of Health, Definitive Plan Approval – "Bull Meadow" Subdivision – Off Appaloosa Drive; received 10/19/16; 1 page.
- EXHIBIT 22.** Public Hearing Sign In Sheet, October 24, 2016; 1 page.
- EXHIBIT 23.** Correspondence from Attorney George Kiritsy, 294 West Boylston Street, West Boylston, MA; submitted at the 10/24/16 public hearing; dated October 17, 2016; 4 pages.
- EXHIBIT 24.** Copy of Correspondence to Scott Morrison, EcoTec, Inc. from the MA Division of Fisheries & Wildlife; Project Location – off Appaloosa Drive, Town – Grafton, NHESP Tracking No. 12-31264; dated September 5, 2012; submitted at the 10/24/16 public hearing; 2 pages.
- EXHIBIT 25.** Public Hearing Continuance; Request to Continue the Public Hearing to 11/14/16 signed by Brian McCarty; received at the 10/24/16 Public Hearing; 1 page.
- EXHIBIT 26.** Correspondence from Graves Engineering; Estates at Bull Meadow, Appaloosa Drive, Definitive Plan Review; received 11/1/16; 7 pages.
- EXHIBIT 27.** Copy of Correspondence to Gordon Lewis, Bull Meadow LLC & the Grafton Conservation Commission from the MA Division of Fisheries & Wildlife; Project Location – off Appaloosa Drive, Town – Grafton, NHESP Tracking No. 12-31264; dated August 24, 2016; received November 1, 2016; 2 pages.

EXHIBIT 28. Public Hearing Sign In Sheet, November 14, 2016; 1 page.

EXHIBIT 29. Revised Application Materials, submitted by McCarty Engineering; received November 22, 2016; includes the following:

- a) Correspondence from McCarty Engineering; Definitive Subdivision Revised Submission, Estates at Bull Meadow, Appaloosa Drive, Grafton Massachusetts; 2 pages.
- b) Plan; Proposed Conditions Watershed Plan; prepared by McCarty Engineering; dated June 10, 201, revised through November 22, 2016; 1 sheet.
- c) Correspondence from McCarty Engineering; Estates at Bull Meadow, Response to Peer Review Comments Dated November 1, 2016; dated November 22, 2016; 9 pages.
- d) Waiver Request Form; 3 pages.
- e) Plan Set; Definitive Conventional Subdivision Plans, Estates at Bull Meadow, North Grafton, Massachusetts; prepared by McCarty Engineering, Inc.; dated June 10, 2016, revised October 22, 2016; 29 sheets.
- f) Report; Converting WQv to Fow Rate for Sizing Proprietary Stormwater Treatment Practices; prepared by McCarty Engineering, Inc.; 2 pages.
- g) Report; Brief Stormceptor Sizing Report - CB 12; Rinker Materials; 2 pages.

EXHIBIT 30. Email correspondence from Police Department, “Bull Meadow” Subdivision – Off Appaloosa Drive; received 11/23/16; 1 page.

EXHIBIT 31. Email correspondence from Zoning Board of Appeals, “Bull Meadow” Subdivision – Off Appaloosa Drive; dated December 7, 2017, received 12/8/16; 1 page.

EXHIBIT 32. Applicant’s Request to Continue Public Hearing to January 23, 2017 and to Extend the Decision Deadline signed by Gordon Lewis; dated and received December 8, 2016; 1 page.

EXHIBIT 33. Public Hearing Sign In Sheet; December 12, 2016; 1 page.

EXHIBIT 34. Correspondence to Town Clerk, Extension of Decision Deadline, “Bull Meadow” Subdivision – Definitive Plan Approval Application, Off Appaloosa Drive, North Grafton; stamped by Town Clerk on December 13, 2016; 2 pages.

EXHIBIT 35. Public Hearing Sign In Sheet; January 9, 2017; 1 page.

EXHIBIT 36. Correspondence from Graves Engineering; Estates at Bull Meadow - Appaloosa Drive, Definitive Plan Review; dated and received January 19, 2017; 6 pages.

EXHIBIT 37. Revised Application Materials, submitted by McCarty Engineering; received January 19, 2017; includes the following:

- a) Correspondence from McCarty Engineering; Definitive Subdivision Revised Submission, Estates at Bull Meadow, Appaloosa Drive, Grafton Massachusetts, January 19, 2017; 2 pages.
- b) Correspondence from McCarty Engineering; Estates at Bull Meadow, Response to Peer Review Comments Dated November 22, 2016; 9 pages.
- c) Copy of Correspondence to Maria Mast, Conservation Agent from McCarty Engineering; Estates at Bull Meadow, Response to Peer Review Comments Dated December 6, 2016; 6 pages.

- d) Waiver Request Form revised through January 9, 2017; 3 pages.
- e) Plan Set; Definitive Conventional Subdivision Plans, Estates at Bull Meadow, North Grafton, Massachusetts; prepared by McCarty Engineering, Inc.; dated June 10, 2016, revised January 9, 2017; 30 sheets.

EXHIBIT 38. Revised Application Materials, submitted by McCarty Engineering; received January 23, 2017; includes the following:

- a) Email Correspondence from McCarty Engineering, Estates at Bull Meadow; Project Update with updated Stormceptor Sizing Report and Converting WQv to Fow Rate for Sizing Proprietary Stormwater Treatment Practices Report; 7 pages.
- b) Revised Plan Sheets; prepared by McCarty Engineering; dated June 10, 201, revised through November 22, 2016; 3 sheets.

EXHIBIT 39. Public Hearing Sign In Sheet; January 23, 2017; 1 page.

EXHIBIT 40. Applicant's Request to Continue Public Hearing to February 13, 2017 and to Extend the Decision Deadline to March 17, 2017 signed by Gordon Lewis; received at the January 23, 2017 public hearing and stamped by the Town Clerk on January 25, 2017; 1 page.

EXHIBIT 41. Minutes of Meeting, Planning Department – Technical Review; January 31, 2017; 4 pages.

EXHIBIT 42. Correspondence from Graves Engineering; Estates at Bull Meadow - Appaloosa Drive, Definitive Plan Review; dated and received February 13, 2017; 6 pages.

EXHIBIT 43. Photos of 37 Bridle Ridge Drive & Parcel X, 2/13/17, General Overview; 8 ½ x 11", color; submitted at the February 13, 2017 public hearing; 11 pages.

EXHIBIT 44. Public Hearing Sign In Sheet; February 13, 2017; 1 page.

EXHIBIT 45. Applicant's Request to Continue Public Hearing to February 27, 2017 and to Extend the Decision Deadline to April 7, 2017 signed by Brian Marchetti; received at the February 13, 2017 public hearing and stamped by the Town Clerk on February 14, 2017; 1 page.

EXHIBIT 46. Revised Application Materials, submitted by McCarty Engineering; received February 22, 2017; includes the following:

- a) Correspondence from McCarty Engineering; Definitive Subdivision Revised Submission, Estates at Bull Meadow, Appaloosa Drive, Grafton Massachusetts; 1 page.
- b) Correspondence from McCarty Engineering; Estates at Bull Meadow, Response to Peer Review Comments Dated November 1, 2016; 7 pages.
- c) Pipe Design Worksheet & Waiver Request Form, Revised February 22, 2017, 5 pages.
- d) Revised Plan Sheets; prepared by McCarty Engineering; dated June 10, 201, revised through February 22, 2017; 5 sheets.

EXHIBIT 47. Correspondence from Graves Engineering; Estates at Bull Meadow - Appaloosa Drive, Definitive Plan Review; dated and received February 24, 2017; 5 pages.

EXHIBIT 48. Public Hearing Sign In Sheet; February 27, 2017; 1 page.

III. FINDINGS

At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Lovvorn) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) in favor to make the following findings:

- F1.) That this application is for a fifteen (15) lot Conventional Development Definitive Subdivision Plan, and has evolved from a Major Residential Special Permit (MRSP 2014-8) & Preliminary Plan Approval.
- F2.) That determinations regarding the following findings are based upon the Plans identified in this Decision, as well as the information and material submitted and presented in association with the Application.
- F3.) That determinations regarding the following findings are also predicated upon satisfactory completion of all road and other related improvements shown on the Plans in accordance with *Rules and Regulations Governing the Subdivision of Land: Grafton, Massachusetts*, revised through 4/27/09 (hereinafter *Rules and Regulations*), except where modified by this Decision or MRSP 2014-8, as well as in accordance with all applicable Federal, State and other Local regulations.
- F4.) That determinations regarding the following findings are also predicated upon satisfying all of the conditions stated within this Decision and all applicable conditions of MRSP 2014-8.
- F5.) That the Applicant requested waivers from the following Sections of the *Rules and Regulations*:
 - *Section 3.3.3.21(a) – Typical roadway cross-sections of each street. See Schedules A&B Typical Roadway Cross Section.*
 - *Section 4.1.2.1(b) - The proposed streets in the subdivision shall be so designed as to minimize cut and fill. Cuts or fills greater than four (4) feet are considered significant and, in addition to the specific provisions of these Regulations, additional design and/or construction provisions may be required by the Board. Proposed grades within the right-of-way, including any cul-de-sac, shall not be more than six feet (6') above or below existing grade unless specifically authorized by the Planning Board in unusual topographic circumstances.*
 - *Section 4.1.5.3 - Where changes in grade exceed one-half of one percent (0.5%), vertical curves will be provided. The minimum length (k value) of vertical curves shall be designed in accordance with the following: Minor Streets – Crest k=28, Sag k=35.*
 - *Section 4.9.1- Sidewalks, grass plots and trees shall be provided for the full length of each street. Sidewalks shall be provided on one side (preferably north, west sides) of Minor Streets and both sides of Major Streets. Sidewalks shall be at least four (4) feet wide, shall conform to all Access codes, and shall be located as shown on the plans and profiles required by these Regulations.*
 - *Section 5.4.2.2 - At least four feet (4') of cover will be required over drain pipes. Where special conditions of topography and/or hydrology are deemed to justify the Board's approval of pipe with less than four feet (4') of cover, the Board may require other materials or methods of construction to meet such conditions.*

- F6.) That the data submitted satisfies the requirements of Section 3.3.1 of the *Rules and Regulations* regarding submission of a Definitive Plan.
- F7.) That the data submitted satisfies the requirements of Section 3.3.2 of the *Rules and Regulations* regarding Plan Sheets.
- F8.) That the materials and information submitted satisfy the requirements of Section 3.3.3 of the *Rules and Regulations* regarding Definitive Plan Contents.
- F9.) That the materials and information submitted satisfy the requirements of Section 3.3.4 of the *Rules and Regulations* regarding Additional Submittal Requirements. Some of the items were completed as part of the Major Residential Special Permit and Preliminary Plan Approval process (MRSP 2014-8) such as a traffic study (Section 3.3.4.7).

At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Lovvorn) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) in favor to make the following findings:

- F10.) That during the public hearing the Board and the Board received testimony from abutters and area residents who expressed their concerns about the following (see EXHIBITS #6, #7, #8, #9, #11, and #23):
 - Parcel “X” – impacts to horse trails, slope easements, construction easements and impacts to abutters regarding structures located therein, (see FINDING #15)
 - Wetlands crossing – safety, environmental impacts (see FINDING #F11)
 - Construction period safety (see CONDITION #D9)
 - Endangered Species (see FINDING #F18)
 - Stormwater – impacts to local wells, flooding (see FINDING #F14)
 - Noise Impacts (see FINDING #F19)
 - Additional housing ineffective in addressing the Town’s needs (see EXHIBIT #8)
- F11.) That during the public hearing the Board and the Applicant discussed the wetlands crossing as it relates to the width of roadway, curbing, sidewalks, plowing, and public safety. Several waivers associated with this part of the project were requested (see WAIVERS #W1 and #W3 and EXHIBITS #20 and #46). Lengthy discussions were held about the nature of wetlands crossing and the need to balance the impacts to the environment with public safety. Another point of consideration was the threshold for approval of the crossing as part of the Conservation Commission review process. While both processes are separate it was noted that wetlands crossing had to be designed to satisfy both parties and that any changes by either party would significantly alter the Application of each. The Applicant requested that the Board consider allowing them to eliminate the wetlands crossing and allow access to the subdivision solely through the “Parcel X” entrance to the site. That would result in creating a dead end road that significantly exceeded the maximum length of roadway allowed under the Subdivision Rules and Regulations for which a waiver would be required. As access options were limited, it was determined that the second access was preferable for the sake of public safety which, in turn, necessitated the pursuit of the wetlands crossing. The Applicant took into consideration all input received from the Board, made several design changes and then presented

their best possible design. Width of roadway, right of way and roadway shoulders were taken into consideration. Concerns were raised about the curve in the road in relation to the slope on the crossing as a potential public safety hazard in the event of snowy or icy conditions if someone should be walking along the shoulder. Snow storage was discussed and it was found that the design allowed for adequate storage in a manner that does not hinder public safety. The Board's peer review engineer was satisfied that the vertical curve issue had been adequately resolved (see EXHIBIT #47).

- F12.) That during the public hearing the Board and the Applicant discussed the design requirement to install concrete sidewalks throughout the subdivision which includes across driveway aprons which are proposed to be paved with asphalt (see WAIVER #W4). The Applicant noted that they wished to eliminate the installation of the concrete sidewalk across the asphalt driveways as each element is installed at separate times which can cause damage to the private property abutting the right of way. Mr. Laydon stated that he had conferred with the Department of Public Works who did not object to this request. The Board further noted that plowing a driveway can be problematic when there are two types of materials to plow over particularly at the transition between materials. It was noted that this requirement of the Subdivision Rules and Regulations should be evaluated for future revision or omission.
- F13.) That during the public hearing the Board and the Applicant discussed the waiver request to reduce the number of feet of fill over pipes for the cross country drainage system (see WAIVER #W5). Concerns were raised about the stormwater drainage system and the impacts to the wetlands particularly as it related to the velocity of flow at the point of discharge. The initial design and flow calculations were not acceptable as the flow velocity could result in deterioration of the infrastructure. This was seen as problematic as the Town will assume maintenance and repair costs of the system once the road and infrastructure are accepted at Town Meeting. The Applicant prepared several design modifications which reduced the flow velocity to a rate that was deemed acceptable by the Board's peer review engineer (see EXHIBIT #47). The issue of required fill over the pipes of the cross country system was also discussed. The Applicant noted that required fill was a standard calculated to withstand compaction associated with vehicle loads travelling over pipes that are below the surface of roadways. The proposed system is travelling through an area that is and will remain undeveloped. Future expansion of the proposed subdivision and the abutting subdivision – North Grafton Estates – is highly unlikely given the site constraints, wetlands and lack of access.
- F14.) That during the public hearing the Board and the Applicant discussed proposed stormwater management systems which include detention basins and rain gardens which will be located on private property once certain lots are sold. The system was reviewed by several Town departments including the Highway Superintendent, the Assistant Town Engineer and the Conservation Agent. The Applicant noted that the ongoing redesign of the system in response to peer review including the inclusion of a Stormceptor system had been reviewed and found acceptable by the peer review engineer (see EXHIBIT #47). Concerns were raised by Town staff regarding the proposed rain gardens which are part of the overall system design. The Board raised concerns about the long term maintenance of those gardens and what mechanisms were available to compel private property owners to care for them based. Mr. Laydon noted that an operations and maintenance manual for the stormwater system including the rain gardens would have to be prepared and submitted to the Town. Deed restrictions could be put in place for those lots where rain gardens are installed. Concerns were raised by some residents about the impacts to the existing retention pond which abuts the proposed subdivision. The Board finds that the Applicant presented a final stormwater management design that proved to be sufficient to meet acceptable engineering standards.

- F15.) That during the public hearing the Board and the Applicant discussed various concerns raised about the site access on what is known as Parcel X which runs between 37 and 39 Bridle Ridge Drive. The Applicant demonstrated that Parcel X was wide enough to accommodate the proposed roadway width. However it was discovered that the abutters at 37 Bridle Ridge Drive, Michael & Susan Brown, had installed hardscape, a play structure and a storage shed within the construction easement that would be required to build the roadway. Mr. Brown stated that the shed was already on the property when they purchased it and that he was not made aware of the encroachment issues at the time of sale. During the course of the public hearing the Board, the Applicant and the Abutter discussed potential solutions to the problem to minimize impacts to the Brown's property. Photographs of the staked the property line in comparison to the limit of slope easement area were submitted (see EXHIBIT #43). It was noted that the roadway could be constructed but it would be built up to the hardscape patio area of the abutter. However the play structure and patio area were located halfway into the slope easement area. It was agreed that the patio and play structure could remain and that the roadway shoulder in that area could be graded up to the retaining wall. The storage shed would have to be moved. The Applicant and the Abutter agreed to this arrangement. The Board notes that the issue pertaining to the horse trail easement had been addressed as part of the Major Residential Special Permit process.
- F16.) That during the public hearing the Board and the Applicant discussed the proposed treatment of the Appaloosa cul de sac as it interfaces with the new roadway. Town staff had reviewed the plan and had stated a preference for reconfiguring the cul de sac to create a straight roadway connection and eliminate excess asphalt and replace it with grass and/or other appropriate ground cover. The issue of connecting the new roadway drainage system to the system currently existing in Appaloosa drive was also addressed. The Applicant agreed to prepare a new plan sheet for inclusion in the plan set prior to endorsement which provided the new design details required to facilitate the redesign of the interconnection between the existing and proposed subdivisions. The Board noted that the plan should be reviewed by Town staff prior to inclusion in the plan set to ensure it satisfies all Town requirements. The Applicant stated that they would agree to such a condition.
- F17.) That during the public hearing the Board and the Applicant discussed the proposed street names of the two internal subdivision roadways. It was noted that that main roadway connection from Appaloosa Drive into the new subdivision was named Paddock Ridge Drive and that is roadway would travel through and connect to Bridle Ridge Drive. Concerns were raised about a continuous roadway have two separate names. The Assistant Fire Chief and the Highway Superintendent had both commented that this would be confusing to emergency and roadway maintenance personnel. They recommended that the new through road be renamed from Paddock Ridge Drive to Appaloosa Drive. The Applicant agreed and submitted plans showing this change (see EXHIBIT #46). It is noted that a fully revised plan set reflect this change on all sheets.
- F18.) That during the public hearing the Board and the Applicant discussed resident's concerns regarding the presence of endangered species on the site. Information was submitted David Deacon of 33 Bridle Ridge Drive (see EXHIBIT #6) stating that vernal pools and endangered species were present on the site. He further presented correspondence from the Department of Fisheries & Wildlife / Natural Heritage and Endangered Species Program and at the October 24, 2016 public hearing dated September 5, 2012 indicating the presence of one rare species on the site (see EXHIBIT #24). It was noted that this issue was also be reviewed as part of the Conservation Commission proceedings. The

Board notes a later letter dated November 1, 2016 to the Conservation Commission and the Property Owner, Mr. Gordon Lewis, stating:

"Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, will not adversely affect the actual Resource Area Habitat of state-protected rare wildlife species." (See EXHIBIT #27).

- F19.) That during the public hearing the Board and the Applicant discussed concerns raised by abutters about potential noise impacts. It was noted that noise from the Massachusetts Turnpike (MassPike) which abuts the proposed subdivision was already present and would increase when lots were cleared for the building new homes. The Applicant was asked if any noise mitigation measures could be put in place. The Applicant noted a large number of trees between the MassPike and the subdivision were to remain and would serve to buffer noise. No other mitigation measures were proposed. It was also noted that the Mass Turnpike Authority is no longer installing noise barriers.
- F20.) That during the public hearing the Board had been provided with peer review comments from Graves Engineering, EcoTec, Inc. and JMM Wetlands Consulting, Inc. in relation to ongoing and concurrent review by the Conservation Commission (see EXHIBITS #16, #20, #24, #37).
- F21.) That the disposition of the open space indicated on the plan is unknown at the time of decision. It is noted that as this is a Conventional Development Plan the Applicant is not required to provide a mechanism to transfer or protect the that portion of the property.
- F22.) That a number of comments from Town Departments had been received throughout the public hearing process including notes taken during staff's technical review of the project (see EXHIBITS #2, #3, #5, #21, #30, #31, #41). The Board notes that the Applicant had addressed all outstanding issues raised by Town staff regarding the review of this project.
- F23.) That the Board's peer review consulting engineering, Jeffrey Walsh of Graves Engineering, conducted a number of reviews during the course of the public hearing (see EXHIBITS #12, #36, #42, #47). The Board notes that the Applicant had addressed all engineering issues to the satisfaction of Graves Engineering (see EXHIBIT #47). Several issues to be determined at the Board's discretion were noted in the final review letter.

At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Lovvorn) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) in favor to make the following findings:

- F24.) With regard to the conditions of approval listed in MRSP 2014-8, the Board finds that:
 - a.) With regard to **Condition # 1**, this Application is for a Conventional Development subdivision.
 - b.) With regard to **Condition # 2**, public water will be provided to the proposed lots in accordance with this condition. The plans were revised to address outstanding peer review comments received in accordance with this condition. Required documents and plan set were received in accordance with this condition.

- c.) With regard to **Condition # 3**, the disposition and treatment of the interface of the existing cul de sac at Appaloosa Drive and the new roadway extension has been addressed in accordance with this Decision (see FINDING #F16). Issues regarding the roadway width with particular attention to the wetlands crossing were vetted at length during the public hearing process by the Board and Town Departments in accordance with this condition (see FINDING F11).
- d.) With regard to **Condition # 4**, the total number of lots intended for building purposes shown on the Definitive Plans does not exceed ten (18); The Definitive Plan submission calls for 15 lots. This condition remains in full force and effect
- e.) With regard to **Condition # 5**, the Applicant adequately addressed the issues screening and buffering on the plans and as conditioned in this Definitive Plan Approval Decision. This condition remains in full force and effect and is conditioned in this Definitive Plan Approval Decision.
- f.) With regard to **Condition #6**, this condition remains in full force and effect.
- g.) With regard to **Condition #7**, the Applicant adequately addressed the issues screening and buffering on the plans and as conditioned in this Definitive Plan Approval Decision. This condition remains in full force and effect and is conditioned in this Definitive Plan Approval Decision.
- h.) With regard to **Condition #8**, the Applicant adequately addressed this Condition during the course of the public hearing and as part of the Technical Review conducted by Town Departments. Issues raised were addressed.
- i.) With regard to **Condition #9**, it is noted that the Applicant addressed the review comments submitted by Graves Engineering throughout the public hearing process.
- k.) **Conditions #10, # 11, #12, #13, #14, #15, and #16** remain in full force and effect.
- l.) With regard to **Conditions # 17 and #18**, the Applicant recorded the MRSP Decision with the Worcester District Registry of Deeds on July 25, 2016, Book 55687, Page 330.
- m.) **Conditions # 19 and #20** remain in full force and effect.

IV. WAIVERS

- W1.** At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Lovvorn) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) to **GRANT** the Applicant’s request for the following Waiver from the *Rules and Regulations*, as specified below:

Section 3.3.3.21(a) – Typical roadway cross-sections of each street. See Schedules A&B Typical Roadway Cross Section.

Applicant’s Rationale for Waiver Request (EXHIBIT #46): The variance requested is from the Standard Cross Section for a Minor Street B. This standard cross section is being utilized in the design of the Definitive Subdivision per the conditions of the Planning Board’s Preliminary Plan Approval. There are two locations where we are requesting relief from the 12’ shoulder dimension of this detail.

- a. The first location is within the access easement at the end of the cul-de-sac on Appaloosa Drive between STA 14+81.56 to STA 16+76.06. The access easement is of adequate width to allow for the standard cross section however there is no grading easement to allow the proposed shoulder elevations to return to existing grades. The 12 foot shoulder on the 10 Appaloosa Drive side of the proposed subdivision roadway is required to deviate from the Standard Cross Section for a Minor Street B in order to meet existing grade. The applicant owns 11 Appaloosa Drive therefore we can maintain the Standard Cross Section with a sidewalk on that side of the proposed roadway without requiring an additional grading easement.
- b. The second location is along the elevated wetland crossing from STA 12+49.47 to STA 14+44.18. Relief is requested from the Standard Cross Section in order to minimize the wetland impact while maintaining a safe width, including a 5.5 foot shoulder (face of curb to face of wall) on the south side of the road and a 10.5 foot shoulder (face of curb to face of wall) including a 4 foot sidewalk on the north side of the road. This layout would place the retaining wall within the Right of Way.

Board Review of Waiver Request: The Board reviewed the language of the Subdivision Rules and Regulations and took into account all of the input received during the public hearing process and submitted into the written record. Of concern was the need to balance waiver requests against the purpose of the Town’s Subdivision Rules and Regulations, which were established to protect and promote the rural and semi-rural character of the Town when considering new development. The Board notes that it is bound to evaluate waiver requests based on the construct of the regulations in effect and determine if the waiver is warranted after weighing the public benefits being offered by the Applicant.

The Board finds that based on the facts submitted, that the Applicant presented a compelling argument to grant the waivers request. In granting these waivers the Board notes there were compelling circumstances that are specific and unique to the site (see FINDING #F11). The Board finds that this will achieve a balance of addressing public safety by maintaining a through access to the site with the need to lessen the impacts to the wetlands by allowing for a reduction of certain requirements of the Subdivision Rules and Regulations as stated in waiver requests.

- W2.** At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Lovvorn) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) to **GRANT** the Applicant’s request for the following Waiver from the *Rules and Regulations*, as specified below:

Section 4.1.2.1(b) - The proposed streets in the subdivision shall be so designed as to minimize cut and fill. Cuts or fills greater than four (4) feet are considered significant and, in addition to the specific provisions of these Regulations, additional design and/or construction provisions may be required by the Board. Proposed grades within the right-of-way, including any cul-de-sac, shall not be more than six feet (6') above or below existing grade unless specifically authorized by the Planning Board in unusual topographic circumstances.

Applicant's Rationale for Waiver Request (EXHIBIT #46): The proposed grades at the elevated wetland crossing will be a maximum of 12 feet above grade at the high point in the roadway at STA 13+81.02. This elevation is unavoidable due to a bordering vegetated wetland being located at the end of the access easement from Appaloosa Drive.

The Board finds that, based on the review of circumstances presented WAIVER #1, the Applicant presented a compelling argument to grant the waiver request.

- W3.** At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Lovvorn) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) to **GRANT** the Applicant's request for the following Waiver from the *Rules and Regulations*, as specified below:

Section 4.1.5.3 - Where changes in grade exceed one-half of one percent (0.5%), vertical curves will be provided. The minimum length (k value) of vertical curves shall be designed in accordance with the following: Minor Streets – Crest k=28, Sag k=35.

Applicant's Rationale for Waiver Request (EXHIBIT #46): The crest curve at STA 13+81 has been revised to meet the minimum k value of 7 which corresponds to the AASHTO design k value for a 20 MPH roadway. See attached letter from the Transportation Consultant, Green International Affiliates, Inc. (GIA) for their response documenting that the design k values used in the design are acceptable for a residential roadway.

Board Review of Waiver Request: The Board notes that there unique circumstances regarding the design of the wetlands crossing which necessitated the ongoing engineering review and redesign of the roadway to result in an acceptable solution to balance multiple design elements while minimizing the impacts to the wetlands. The Applicant submitted a several redesigned concepts regarding this waiver request which addressed the ongoing review comments of the peer review engineer. By the time of the close of the public hearing the Applicant had submitted a design and corresponding calculations that were deemed to be acceptable by the peer review engineer.

The Board finds that, based on information received by the peer review consultant (EXHIBIT #47) and the need to recognize the unique set of circumstances that necessitated this waiver request (see FINDING #F11 and WAIVER #1) that the Applicant presented a compelling argument to grant the waiver request.

- W4.** At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Lovvorn) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) to **GRANT** the Applicant's request for the following Waiver from the *Rules and Regulations*, as specified below:

Section 4.9.1- Sidewalks, grass plots and trees shall be provided for the full length of each street. Sidewalks shall be provided on one side (preferably north, west sides) of Minor Streets and both sides of Major Streets. Sidewalks shall be at least four (4) feet wide, shall conform to all Access codes, and shall be located as shown on the plans and profiles required by these Regulations.

Applicant's Rationale for Waiver Request (EXHIBIT #46): Concrete sidewalks are proposed within the development however they are not proposed across driveways. This design is consistent with the existing neighborhood in addition to providing a safer driveway design for snow plowing and maintenance considerations.

The Board finds that, based on FINDING #F12, that the Applicant presented a compelling argument to grant the waiver request.

- W5.** At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Lovvorn) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) to **GRANT** the Applicant's request for the following Waiver from the *Rules and Regulations*, as specified below:

Section 5.4.2.2 - At least four feet (4') of cover will be required over drain pipes. Where special conditions of topography and/or hydrology are deemed to justify the Board's approval of pipe with less than four feet (4') of cover, the Board may require other materials or methods of construction to meet such conditions.

Applicant's Rationale for Waiver Request (EXHIBIT #46): The minimum cover over the drainage trunk line on Carriage House Lane from DMH 6 to proposed Infiltration Basin 1 is 2.5'. This waiver is requested in order to avoid a submerged inlet to the proposed infiltration basin and maintain adequate separation from the bottom of basin to the high groundwater elevation. The minimum cover over the drainage trunk line from DMH 14 to DMH 18 is also 2.5'. This drainage trunk line is a cross country drain that is required to convey an 18" discharge from the North Grafton Estates II Subdivision to the receiving wetland on the Estates at Bull Meadow Subdivision. The trunk line is located in the middle of a woodland area that will never be driven over or exposed to mechanical loads therefore 4 feet of cover is not required to protect the pipe.

Board Review of Waiver Request: The Board reviewed the various comments made by the peer review engineer who had raised concerns about the cross country drainage design (see Comment #39 of EXHIBIT #42 and EXHIBIT #47). As part of that discussion and subsequent redesign to address engineering comments it was noted that the system to which this waiver refers will be discharging into an existing wetland area. The Board notes that point of discharge is in an area that is undevelopable and that the potential for future expansion of the current project or the adjoining North Grafton Estates is highly improbable. It was noted that the current project does not have any capability to expand due to the surrounding wetlands and the constrictions of the site location.

The Board finds that, based on FINDING #13 that the Applicant presented a compelling argument to grant the waiver request.

V. DECISION and CONDITIONS

At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Lovvorn) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger –

AYE; Lovvorn – AYE; Scully – AYE) to **APPROVE** the Application for Approval of a Definitive Subdivision Plan with the following conditions:

A. Standard Conditions

1. This Approval shall not be construed as approving the buildability of any lots shown on the Plans. All applicable Federal, State or other Local permits/approvals must be obtained for each lot prior to construction on said lot.
2. This Approval shall not be construed as final approval of any on- or off-site improvements or work (such as water, sewer, drainage, or other utilities installation) associated with this project and shown on the Plans. All applicable Federal, State and Local approvals/permits shall be obtained by the Applicant prior to the construction of any portion of the development or off-site improvements that warrant such approvals/permits. All applicable requirements of the Grafton Water District, Grafton Board of Health, Grafton Police Department, Grafton Department of Public Works, and all other applicable utilities, are hereby incorporated by reference as a requirement of this Decision.
3. Any modification to the approved Plans shall require, prior to implementing such change, a determination from the Planning Board as to whether the proposed change is substantially different than presented in the materials and information used in making this Decision. The Planning Board reserves the right to solicit comments from other Town boards, departments and committees, as well as its consulting engineer, in making determinations regarding such changes. The Planning Board may, upon its determination, require a modification of this Decision if it finds that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision. Any Modification of this Decision shall be made pursuant to Section 3.3 of the *Subdivision Rules and Regulations*.
4. The Planning Board reserves the right, pursuant to the *Subdivision Rules and Regulations* and Section 1.5.1.1 of the Zoning By-Law, to utilize the services of a professional engineer in reviewing any materials required to be submitted as conditions of this Decision, and conducting any inspections or other work associated with the construction of the subdivision. In accordance with the applicable sections of the *Subdivision Rules and Regulations* and the ZBL, any fees or expenses associated with such reviews and inspections shall be the responsibility of the Applicant. Such inspections or reviews will not be conducted if a zero or negative balance exists in any account established by the Planning Board for the purposes stated in this Condition.
5. All site development and construction shall be performed in accordance with the approved Plans and the *Rules and Regulations Governing the Subdivision of Land: Grafton, Massachusetts* (revised through 4/27/09), as well as with all applicable Federal, State and Town laws, ordinances and regulations. In the event of a discrepancy between the Plans and the *Rules and Regulations*, and absent clarification or approval of such discrepancy stated within the Findings or Conditions of this Decision or any related Special Permit, the requirements of the *Rules and Regulations* shall apply. All required permits and approvals shall be secured by the Applicant at the appropriate stage of construction and copies of all pertinent documents regarding said permits and approvals shall be filed with the Planning Board in a timely manner.
6. Construction of the improvements shown on the Plans approved as part of this Decision is subject to approval by the Grafton Conservation Commission. Any Order of Conditions and/or permits issued by the Conservation Commission with respect to this Application are hereby incorporated by reference and shall constitute a condition of this Decision. If such Order of Conditions and/or

permits require substantial modifications to any of the plans approved by the Planning Board, the Board may, upon its determination, require a modification of this Decision if it finds that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision. Any modification of this Decision shall be made pursuant to Section 3.3 of the *Rules and Regulations*, and as noted within the Conditions of this Decision.

7. All grading and construction shall be performed in accordance with the Plan, as well as all applicable Federal, State and Local regulations, and shall be accomplished so as not to discharge any non-permitted pollutants or siltation into waterways during construction or after completion of the subdivision.
8. The Applicant, their successors and assigns, will not sell any lot in the subdivision or erect or place any permanent building on any such lot until the construction of ways and municipal services necessary to adequately serve such lot has been completed in accordance with the approved Plans and the *Rules and Regulations*. In the event of a discrepancy between the Plans and the *Rules and Regulations*, and absent clarification or approval of such discrepancy stated within the Findings or Conditions of this Decision, the requirements of the *Rules and Regulations* shall apply.
9. The Definitive Plan shall be submitted for endorsement within six (6) months following approval.
10. This Definitive Plan Approval Decision shall be recorded in the Worcester District Registry of Deeds (WDRD) prior to any ongoing Town review and / or peer review associated with conditions set forth in this Decision. The Applicant shall submit evidence to the Planning Board that this Decision has been recorded at the WDRD, including a copy of such recording bearing the WDRD Book and Page Number and/or Instrument Number. Any such Plan(s) submitted to the Planning Board for approval shall contain reference to this Decision, as well as other related approvals, indicating that such plans are prepared pursuant to said Decision(s)/Approval(s) and shall include WDRD recording information, including Book and Page numbers. By recording this Definitive Plan Approval Decision in the Worcester Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit Decision, and which acceptance shall bind the Applicant and its successors and assigns.
11. The full plan set of the Approved Definitive Plan shall be recorded at the Worcester District Registry of Deeds prior to any ongoing Town review and / or peer review associated with conditions set forth in this Decision. The Applicant / Developer shall notify the Planning Board within ten (10) days of the recording of all pages of the approved documents and will notify the Board in writing, presenting evidence of the recording (See Section 3.3.9.1 of the Subdivision Rules and Regulations).
12. All construction and site improvements shall be completed within two years of the date of plan endorsement or thirty (30) months from the date of this Decision, whichever occurs sooner. This Decision shall lapse after said applicable time period, and no other work may occur, and the subdivision approval shall be deemed automatically rescinded unless the Planning Board grants an extension pursuant to the *Subdivision Rules and Regulations*. Requests for extensions shall require a public hearing in accordance with all applicable requirements for conducting such hearings.
13. Any inability or failure or refusal by the Applicant to comply with the Conditions of this Decision, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.

B. Conditions to be met prior to Plan Endorsement

1. An additional sheet will be developed and incorporated into the plan set showing the design and specifications for the redesign of the end of Appaloosa Drive from a cul de sac to a through road. Such work shall include, but not be limited to, the transition onto the new roadway from the end of the existing cul de sac in terms of pavement and drainage design, the treatment of the current paved areas to be abandoned by the new design as well as any other items required by the Planning Board and/or its agent. This plan shall be submitted to the Town for review by the Planning Board and/or its agent. The plan will require approval from the Department of Public Works, the Assistant Town Engineer and the Fire Department. This review will be facilitated by the Town Planner. The Applicant shall receive written notice that the proposed plan is acceptable prior to incorporating the plan sheet into the plan set.
2. Plan sheets must be revised to replace "Paddock Ridge Drive" with "Appaloosa Drive" as agreed upon during the public hearing (see FINDING #F17).
3. The Applicant shall submit to the Planning Board written approval from the Grafton DPW Highway Superintendent / Tree Warden a Tree Plan for the proposed species of trees to be used as street trees. The plan submitted for endorsement by the Board shall include all relevant details for said trees (e.g., size, type, planting details, etc.) as approved by the Tree Warden/DPW Director.
4. The Conditions set forth in this Decision shall be inscribed on a sheet of the Plans suitable for recording at the Worcester Registry of Deeds (WDRD). Such sheets shall be so recorded as part of the Definitive Plan. Reference to these Conditions, as well as the WDRD Book and Page number of the recorded Decision and the corresponding sheet numbers shall also be inscribed on any sheet(s) that do not contain the Conditions of Approval.
5. The plans shall be revised to sequentially to reflect the sheet numbers cataloged on the Cover Sheet which will include a new sheet as identified in Condition B1.
6. The Applicant / Developer shall provide a performance guarantee pursuant to Section 3.3.8 of the Subdivision Rules and Regulations which state: "Construction and installation within the site property shall be secured by one, or in part by one and part by another, of the following methods which may, from time to time, be varied by the Applicant. Said security shall be posted and approved by the Planning Board prior to the construction, installation or sale of lots. Construction and installation within existing street right-of-ways shall be secured by surety as required under the Street Opening and / or other Permit(s)."
7. All applicable requirements of Section 3.3.7 of the *Rules and Regulations Governing the Subdivision of Land: Grafton, Massachusetts* (revised through 4/27/09) shall be satisfied.

C. Conditions to be satisfied prior to the Start of Any Construction Activity

1. Prior to the commencement of work, the Planning Board shall be provided with the following:
 - a. Five (5) full size plan sets, 24" x 36", endorsed and recorded, one of which shall be sent directly to the Town's peer review consulting engineer.
 - b. An electronic copy of the endorsed and recorded plan set. The electronic copy shall be in a "PDF" compatible format.

2. The Applicant / Developer shall submit acceptable construction and maintenance schedule documents in accordance with Section 3.3.7.3 of the the Subdivison Rules and Regulations.
3. The Applicant / Developer shall install orange snow fencing around the limits of work for the purpose of maintaining the existing tree cover. Fencing shall be inspected by the Planing Board or its Agent and receive approval thereof prior to the commencement of construction activity on site. The Developer shall maintain fencing throughout the construction of the development. The fencing shall be inspected periodically by the Board or it's Agent to ensure compliance.
4. In advance of any site clearing, the Applicant / Developer and/or its Agent shall participate in a site walk with the Town Planner to determine if any Heritage Trees exist on site as defined under Article 33 – Shade Tree of the Town's General By-Laws. Trees on site identified as such shall have orange snow fencing around them. Fencing shall be inspected by the Town Planner and Tree Warden and will receive written approval thereof prior to the commencement of construction activity on site. The Developer shall maintain fencing throughout the construction of the development. The fencing shall be inspected periodically by the Board or it's Agent to ensure compliance
5. An initial inspection of erosion control /site stabilization measures shall be performed by agent(s) of both the Planning Board and Conservation Commisison in the presence of a representative of the Applicant / Developer, and notice of such inspection forwarded to both Boards. No construction activity shall occur on the Site until the Applicant / Developer receives written authorization from both the Planning Board and Conservation Commission regarding the adequacy of the initial erosion control and site stabilization measures. The Planning Board reserves the right to require additional eroison control/site stabilization measures at any time during the construction process should the Planning Board, Conservation Commission, or their agent(s) deem such measures necessary. The Applicant / Developer shall be notified in writing of the necessity for such additional measures, and shall complete all such requirements within ten (10) days of receiving said notice, or other time as may be agreed upon by both the Planning Board and Conservation Conservation Commission.
6. Prior to commencing any work within a public way, all required permits / approvals shall be obtained from the Grafton Department of Public Works.
7. In accordance with the National Pollutant Discharge Elimination System (NPDES) Phase II requirements, a Stormwater Pollution Prevention Plan shall be maintained at all times on the Site by the Applicant / Developer. A copy of this document shall be forwarded to the Planning Board, Conservation Commission and Department of Public Works prior to commencing any construction activity.

D. Conditions to be met During Construction

1. Construction and installation of the roadway and municipal services shall only occur Monday through Saturday between the hours of 7:00 a.m. and 5:00 p.m., and there shall be no construction activity on State or Federal holidays.
2. The Site shall be inspected on a regular basis by an agent of the Planning Board and/or Conservation Commission in the presence of a representative of the Applicant / Developer, in order to monitor the stormwater management system/facilities and erosion control/site stabilization measures.

3. All site construction, development and improvements shall be inspected at the appropriate stage(s) of construction by the Planning Board or its agent upon request made by the Applicant to the Planning Board or its agent, in accordance with any policies for such requests.
4. Except as otherwise approved by the Planning Board or modified as part of this Definitive Plan Approval Decision, all driveways, roadways, utilities and other improvements shall conform to the construction standards of the *Subdivision Rules and Regulations*. All site improvements shall be inspected at the appropriate stage of construction in accordance with the *Rules and Regulations* and as required by the Board.
5. Every effort will be made to ensure that screening and buffering measures shall sufficiently screen/buffer, to the satisfaction of the Board, the proposed development from surrounding properties and dwellings
6. In no case shall additional filling or land disturbance occur that results in a steeper slope or a slope that encroaches on the roadway to a greater degree than shown on the plans without the expressed prior approval of the Planning Board.
7. The Town reserves the right to require reasonable additional construction techniques, for either on-site or off-site work, in response to actual field conditions, effects of construction methods and as the situation warrants. This may include, without limitation, earth work, purchase and installation of materials, infrastructure, etc., and lot drainage issues.
8. Driveway slopes, both within and outside the right-of-way shall comply with the *Subdivision Rules and Regulations*, and development of individual lots shall not cause detrimental drainage, erosion or sedimentation onto adjacent property, roadways or lots. Driveways shall not exceed 10% in slope without prior approval by the Planning Department and Fire Department.
9. All construction vehicles and vehicles of all workers are to be parked on site. Parking of construction vehicles on Appaloosa Drive or Bridle Ridge Drive is specifically prohibited, except during the period of the initial clearing of the property.
10. The Applicant shall take all necessary measures to minimize dust from rising and blowing across the site and onto roads and adjacent properties. Any sediment or dirt tracked onto public ways shall be swept prior to the end of the construction day.
11. Once the plant materials associated with the approved tree plan have arrived on site, and prior to their installation, the Planning Board's agent shall be contacted to arrange an inspection and to approve the size, quantity and species of plant materials prior to their installation in the ground. De minimus changes limited to the exact location of species and plant materials may be approved by the Town Planner upon consultation with the Tree Warden provided the intent of the material is maintained.

E. Conditions to be met prior to Release of Lots or Reduction of Surety

1. Evidence shall be provided to the Planning Board and/or its Agent indicating compliance with conditions set forth by the Conservation Commission specifically regarding the operations and management of rain gardens to be installed by the developer and maintained by the private property owner as well as any other conditions associated with the operations and maintenance of the stormwater management system. Such conditions may or may not include deed restrictions for those lots on which a rain garden is installed per the approved Definitive Plan.

2. As per Section 3.3.10 of the *Subdivision Rules and Regulations*, prior to the release of any lot or reduction in surety, executed documents in a form acceptable to the Town shall be submitted that grant to the Town all rights regarding the roadway, drainage easements and all other infrastructure.
3. All stormwater management facilities and associated structures, including pipe, loaming, and seeding, shall be completed, and stormwater runoff suitably controlled, to the satisfaction of the Planning Board prior to the release of any lot within that portion of the subdivision.

F. Conditions to be met prior to the Issuance of either a Temporary or Permanent Occupancy Permit

1. The Building Inspector shall require proof of the following in consultation with the Town Planner:
 - a. A valid and duly recorded Lot Release documentation for said lot in question.
 - b. Proof of final approval of the Tree Plan as it pertains to the lot in question. The Town reserves the right to conduct a site inspection of lot to verify that the approved Tree Plan continues to remain valid. In the event that the plant material has failed (either by death or disease) new material will be installed at the expense of the Property Owner and / or its Agent or Builder. All work to replace plant material will be done to the satisfaction of the Planning Board or its agent and must receive final written approval to be submitted into the Planning Department project file and provided to the Building Department prior to the issuance of an occupancy permit.

G. Conditions to be met prior to Request for Determination of Completeness

1. Prior to acceptance of the way and improvements by the Town, a determination shall be made by the Planning Board, through its designated consulting engineer, as to whether the detention basins, rain gardens, as well as all other improvements, are constructed and operate as designed on the approved plan(s). If a negative determination is made, the Applicant shall, at their own expense, remedy any and all deficiencies to the satisfaction of the Board.
2. A final inspection by the Police Department and Department of Public Works will be conducted to ensure that all public safety signage and roadway markings have met the required standards. The Town reserves the right to require additional public safety controls in the event that site conditions may warrant. The Applicant / Developer shall be responsible to submitting a final approval from both the Police Department and the Department of Public Works that the all signs and other public safety controls have been identified and installed to their satisfaction. This Condition does not nullify or negate the requirements set forth in Section 3.2.11.2.d (Written Evidence of Compliance from Superintendent of Streets) of the Subdivision Rules and Regulations during the Determination of Completeness Review.
3. The Planning Board or its designated agent shall inspect all plantings to ensure that all the plantings have been installed as specified on the approved Tree Plan.

VI. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) to **APPROVE** the

Applicant's Definitive Plan Approval Application for a 15 Lot Conventional Development with Conditions based on the information received at the public hearing and the aforementioned findings.

<u>Michael Scully, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Vice Chairman</u>	<u>AYE</u>	<u>Tracy Lovvorn, Member</u>	<u>AYE</u>
<u>David Robbins, Clerk</u>	<u>AYE</u>		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Joseph Laydon, Town Planner

3-28-2017

Date

cc: Applicant / Owner

- | | | |
|---------------------------|---------------------------|----------------------|
| • Graves Engineering | • Building Inspector | • Board of Assessors |
| • Assistant Town Engineer | • Conservation Commission | |

To Whom It May Concern: This is to certify that the 20 day appeal period has passed and there have been no appeals made to this office.

Donna Girouard, Town Clerk

Date

